Remarks:

The amendments and remarks presented herein are believed to be fully responsive to the Office Action dated January 31, 2005.

Claims 1-17 are pending in the application. Claims 1, 6-13 and 15 have been amended as set forth above. The amendments are fully supported in the specification and drawings as originally filed. No new matter has been added.

Claims 18-55 have been canceled herein without prejudice, since these claims were not elected in response to the restriction requirement mailed November 16, 2004. Applicants submit that claim 1, as amended herein, is drawn to the elected invention.

ALLOWABLE CLAIMS

Claims 11-17 were indicated as being directed toward allowable subject matter and as being allowable if rewritten in independent form. Applicants have amended claims 11-13 and 15 to be in independent form, such that claims 11-17 are now in condition for allowance.

CLAIM REJECTIONS

Claims 1-10 were rejected under 35 U.S.C. §102(b) as being anticipated by Tapio et al., U.S. Patent No. 6,129,481. Applicants respectfully traverse the rejections under 35 U.S.C. §102(b) for the reasons set forth below.

Applicants have amended independent claim 1 to clarify that the control system includes an activating device and that the control is operable to automatically lower the vibrating member toward and into engagement with the concrete surface in response to a signal generated by the activating device. The activating device comprises at least one of

a timing device, a concrete sensing device, a sensing device for sensing a concrete surface characteristic, a sensing device for sensing a degree of cure of the concrete, a sensing device for sensing a degree of processing of the concrete, and a device for determining a height of the screed head assembly above the concrete or the desired grade level. Dependent claims 6-10 are also amended herein to correspond to the amendments of independent claim 1.

Applicants submit that Tapio et al. does not disclose, teach or suggest the soft landing control system of the present invention, particularly as set forth in independent claim 1 and in the claims depending therefrom. The Office Action states that the hydraulic cylinder (258) of Tapio et al. is operable to automatically lower the vibrating member into engagement with the concrete surface after the grade setting device is lowered to the desired grade level. However, Applicants submit that the hydraulic cylinder of Tapio et al. does not lower the vibrating member to the concrete surface after the plow is lowered to the desired grade level. Rather, the hydraulic cylinder of Tapio et al. functions to pivot the vibrating member and plow about the auger to maintain the screed in a level orientation, in order to maintain or reposition the plow at the desired grade level. The hydraulic cylinder of Tapio et al. is actuated in response to a level sensor, whereby the pivotal movement of the vibrating member and plow via operation of the hydraulic cylinder functions to maintain the screed in a level orientation during the screeding process, since the screed assembly may rotate during operation due to the force and pressure of the concrete engaging the plow as the screed assembly is moved over and along the concrete surface (see column 12, lines 54-65 of Tapio et al.). Thus, there is no disclosure or suggestion in Tapio et al. of lowering the vibrating member toward and into engagement with the concrete surface after the grade setting device is lowered to the desired grade level. To the contrary, the screed assembly of Tapio et al. only moves the vibrating member (and the plow) when the plow or grade setting device is moved to a level above or below the desired grade level. Moreover, there is no disclosure or suggestion in Tapio et al. of providing an activating device, whereby the control automatically lowers the vibrating member toward and into engagement with the concrete surface in response to a signal generated by the activating device.

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Accordingly, Applicants respectfully submit that Tapio et al., either alone or in combination with any other prior art of record, does not disclose, teach, suggest or render obvious the soft landing control system of the present invention, particularly as set forth in independent claim 1 and in the claims depending therefrom. Reconsideration and withdrawal of the rejection of claims 1-10 is respectfully requested.

Claims 1-17 remain pending in the application. Claims 1, 6-13 and 15 have been amended above and claims 18-55 have been canceled without prejudice. Applicants respectfully submit that claims 1-17 are in condition for allowance and a notice to that effect is earnestly and respectfully requested.

Respectfully submitted,

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By: Van Dyke, Gardner, Linn & Burkhart, LLP

Date: April 22, 2005.

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